

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SIGHT SCIENCES, INC.,

Plaintiff,

v.

IVANTIS, INC., ALCON RESEARCH LLC,
ALCON VISION, LLC AND ALCON INC.,

Defendants.

C. A. No.: 21-1317-GBW-SRF

JURY TRIAL DEMANDED

**Redacted - Public Version Filed on:
November 22, 2023**

**SIGHT'S RESPONSES TO ALCON'S ADDITIONAL CONCISE
STATEMENTS OF FACTS IN SUPPORT OF ALCON'S ANSWERING
BRIEF TO SIGHT'S MOTIONS FOR SUMMARY JUDGMENT NO. 2 AND NO. 3**

Pursuant to Paragraph 14(b) of the Scheduling Order (D.I. 93), Plaintiff Sight Sciences, Inc. submits its Responses to Alcon's Additional Concise Statements of Facts in Support of Alcon's Answering Brief to Sight's Motions for Summary Judgment No. 2 and No. 3 ("RASOFs"):

1. Sight's Response to Alcon's Additional Concise Statement of Facts in Support of Alcon's Answering Brief to Sight's Motion for Summary Judgment No. 2 ("RASOF2," Ex. 1).
2. Sight's Response to Alcon's Additional Concise Statement of Facts in Support of Alcon's Answering Brief to Sight's Motion for Summary Judgment No. 3 ("RASOF3," Ex. 2).

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Dated: November 16, 2023

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EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SIGHT SCIENCES, INC.,)	
)	C. A. No.: 21-1317-GBW-SRF
Plaintiff,)	
)	JURY TRIAL DEMANDED
v.)	
)	FILED UNDER SEAL
IVANTIS, INC., ALCON RESEARCH LLC,)	HIGHLY CONFIDENTIAL
ALCON VISION, LLC AND ALCON INC.,)	
)	
Defendants.)	

**SIGHT'S RESPONSE TO ALCON'S
ADDITIONAL CONCISE STATEMENT OF FACTS IN SUPPORT OF ALCON'S
ANSWERING BRIEF TO SIGHT'S MOTION FOR SUMMARY JUDGMENT NO. 2**

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(IVANTIS_SS_00172874) at 172932-33 (“While some aqueous may enter Schlemm’s canal through the windows of Hydrus . . .”).)

2. **Disputed in part.** Defendants’ statement that “[w]hen bypass devices are implanted at least partially within Schlemm’s canal, the pressure between the anterior chamber and the lumen of Schlemm’s canal is equalized” is incorrect because it lacks necessary qualifications and context. Sight agrees that the pressure between the anterior chamber and the lumen of Schlemm’s canal equalizes in the region near the bypass when a device with a bypass is implanted at least partially within Schlemm’s canal. But whether this statement is true for the entire portion of Schlemm’s canal supported by a device inserted at least partially into the canal depends on the design and dimensions of the device. Sight’s expert, Dr. Downs, analyzed the fluid mechanics of the Hydrus, which showed that due to the Hydrus’s design and dimensions (*i.e.*, having wider window regions separated by narrower spine regions that are spaced apart from the inlet bypass), the pressure between the anterior chamber and the lumen of Schlemm’s canal would **not** be equalized in the portions of Schlemm’s canal supported by the Hydrus’s windows, with the pressure differential most pronounced at Hydrus’s most distal window. (*See* Ex. 90 (Downs Reb.) ¶¶168 & n.174, 169-171, 173; Ex. 57 (Downs Reply) ¶54.) Dr. Downs’s analysis is consistent with Defendants’ representations to the FDA and doctors, as well as Defendants’ expert’s previous admission, that there is at least some amount of flow through the trabecular meshwork into Schlemm’s canal through the windows of the Hydrus. (*See, e.g.*, Ex. 22 (IVANTIS_SS_00006997) at 7001; Ex. 23 (IVANTIS_SS_00276222) at 276226 (“[REDACTED]”

[REDACTED] Ex. 24

(IVANTIS_SS_00074707) at 74723 (“[REDACTED]”

[REDACTED]

[REDACTED]

[REDACTED]”); Ex. 25 (IVANTIS_SS_00023750) at 23768); Ex. 34 (Tanna *Glaukos* Rpt.) ¶144 (IVANTIS_SS_00172874) at 172932-33 (“While some aqueous may enter Schlemm’s canal through the windows of Hydrus”).) None of Defendants’ experts performed any fluid flow or fluid mechanics analysis to rebut Dr. Downs’s analysis or showed that the pressure between the anterior chamber and the lumen of Schlemm’s canal equalizes for the entirety of the lumen of Schlemm’s canal supported by an implanted Hydrus device, particularly the most distal portions furthest away from the Hydrus inlet. (*See, e.g.*, Ex. 135 (Iwach Tr.) 82:8-19.)

3. **Disputed in part.** Defendants’ statement that “[t]here is no flow across the trabecular meshwork if there is no pressure gradient between the anterior chamber and the lumen of Schlemm’s canal” is incorrect because it lacks necessary qualifications and context. Sight agrees that in region(s) of Schlemm’s canal where there is no pressure gradient between the anterior chamber and those region(s) of the canal, there would be no flow across the trabecular meshwork abutting those region(s). Sight disagrees with any suggestion, expressed or implied, by Defendants that there is always a single, uniform pressure gradient between the anterior chamber and the entirety of the lumen of Schlemm’s canal. Put another way, Sight disagrees that if there is no pressure gradient between the anterior chamber and one portion of the lumen of Schlemm’s canal, that there is no pressure gradient between the anterior chamber and other portion(s) of the lumen of Schlemm’s canal. For example, Sight’s expert Dr. Downs performed an analysis of the fluid mechanics of the Hydrus, which showed that while there is no pressure gradient between the anterior chamber and the portion of Schlemm’s canal nearby the Hydrus inlet, there is a pressure gradient between the anterior chamber and Schlemm’s canal in the regions supported by the

Hydrus's windows, with the largest pressure gradient occurring at the most distal window furthest from the inlet. (See Ex. 90 (Downs Reb.) ¶¶168 & n.174, 169-171 ("These flow restrictions would lower the pressure in Schlemm's canal (P_{sc}) below the pressure in the eye (P_o), with the canal lumen adjacent to the third window farthest from the snorkel inlet having the lowest canal pressure. The pressure difference between the anterior chamber of the eye (P_o) and the lumen of Schlemm's canal (P_{sc}) drives the transmural flow through the trabecular meshwork, so when these pressures are not equal, as would be the case with the Hydrus, transmural pressure and flow are nonzero."), 173; Ex. 57 (Downs Reply) ¶54.) The existence of a pressure gradient between the anterior chamber and the portions of Schlemm's canal supported by the Hydrus's windows is also necessarily shown by Defendants' representations to the FDA and doctors, as well as Defendants' expert's previous admission, that there is at least some amount of flow through the trabecular meshwork into Schlemm's canal through the windows of the Hydrus. (See, e.g., Ex. 22 (IVANTIS_SS_00006997) at 7001; Ex. 23 (IVANTIS_SS_00276222) at 276226; Ex. 24 (IVANTIS_SS_00074707) at 74723 ("[REDACTED] [REDACTED]"); Ex. 25 (IVANTIS_SS_00023750) at 23768; Ex. 34 (Tanna *Glaukos* Rpt.) ¶144 (IVANTIS_SS_00172874) at 172932-33.) Neither Defendants nor their experts provided evidence or analysis of the fluid mechanics of the Hydrus that shows that the presence of the Hydrus inlet results in a zero pressure gradient between the anterior chamber and the portions of Schlemm's canal supported by the three Hydrus windows. (See, e.g., Ex. 135 (Iwach Tr.) 82:8-19.)

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EXHIBIT 2

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**SIGHT'S RESPONSE TO ALCON'S ADDITIONAL
CONCISE STATEMENT OF FACTS IN SUPPORT OF ALCON'S
ANSWERING BRIEF TO SIGHT'S MOTION FOR SUMMARY JUDGMENT NO. 3**

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1. **Undisputed but immaterial.** Sight disclosed in its expert reports its assertion that iStent does not constitute prior art. (Ex. 137 (Downs Reb.) ¶¶95-97.) This was Sight's first opportunity to provide such assertions, since prior to serving Dr. Tanna's Opening Expert Report (Ex. 136 (Tanna Op.) ¶¶92, 151, 411, 412, 416, 417, 423, 425, 430, 433, 441, 450, 460, 465, 482.) Defendants had not articulated their basis for asserting that the iStent was prior art.

2. **Undisputed but immaterial.** While Dr. Parrish testified that his recent search of the modern clinicaltrials.gov website shows that clinical trials for iStent started prior to June 6, 2006, the recent search result says nothing about the public use or availability of iStent as of June 6, 2006. (Ex. 55 (Parrish Reb.) ¶60.) Dr. Parrish's cited testimony also says nothing about any features of iStent that were disclosed on the clinicaltrials.gov website.

3. **Undisputed but immaterial.** While Dr. Parrish testified that surgeons involved in clinical trials of iStent were provided instructions on how to use the device, he further testified that such information was not made available to persons of ordinary skill in the art prior to June 6, 2006. (Ex. 138 (Parrish Tr.) at 161:22-162:6 ("So a person of ordinary skill in the art would not have access to the training which would permit them to use Lynch vis-à-vis the type of technique used to implant the iStent, because they did not have access either to the device or the training that would have permitted them to implant that device.").)

4. **Undisputed but immaterial.** Paul Badawi's general awareness of the fact that iStent was in clinical trials does not establish any details about what was publicly known about the iStent device or the clinical trials.

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CERTIFICATE OF SERVICE

I, Melanie K. Sharp, Esquire, hereby certify that on November 16, 2023, I caused to be electronically filed a true and correct copy of Sight's Responses to Alcon's Additional Concise Statements of Facts in Support of Alcon's Answering Brief to Sight's Motions for Summary Judgment No. 2 and No. 3 with the Clerk of the Court using CM/ECF, which will send notification to the following counsel of record:

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I further certify that on November 16, 2023, I caused a copy of the foregoing document to be served on the above-listed counsel of record and on the following non-registered participants in the manner indicated:

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